

1 RALPH DI TULLIO  
2 ELISABETH DI TULLIO  
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Los Gatos, California 95033  
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4 Pro Se Defendants

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 RICHARD JOHNSON,

**Case No.: 5:17-cv-05975-SVK**

12 Plaintiff,

**DEFENDANTS RALPH DI TULLIO'S  
AND ELISABETH DI TULLIO'S  
ANSWER TO COMPLAINT**

13 vs.

14 RALPH DI TULLIO; ELISABETH DI TULLIO,  
and DOES 1-10, Inclusive,

**Complaint Filed: October 18, 2017  
Trial Date: None Set**

15 Defendants.  
16 \_\_\_\_\_ /

17 These answering defendants respond to the Complaint on file herein as follows:

18 1. Defendants admit the allegations of paragraphs 2, 3, 4, 7, 10, 20, 27, and 28.

19 2. Defendants admit the allegation of paragraph 29 with the exception of the last  
20 sentence set forth on page 11, lines 13-15.

21 3. Defendants lack sufficient information and belief to enable them to respond to the  
22 allegations of paragraphs 1, 5, 6, 9, 11, 12, 13, 14, 15, 18, 21, 22, 23, 24, 25 and 33 of the complaint  
23 and on that basis deny each and every allegation therein.

24 4. Defendants deny the allegations set forth in paragraphs 16, 17, 30 and 31 of the  
25 complaint.

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FILED  
NOV 21 2017  
CLERK SUSAN Y. SOONG, DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
J/C

## AFFIRMATIVES DEFENSES

## **FIRST AFFIRMATIVE DEFENSE**

The Complaint, and each purported cause of action therein, fails to state facts sufficient to constitute a claim for relief against Defendants.

## **SECOND AFFIRMATIVE DEFENSE**

On information and belief, Defendants allege that the Complaint, and each purported cause of action therein, are barred by the doctrine of estoppel.

## **THIRD AFFIRMATIVE DEFENSE**

At all times relevant to this action, Defendants acted honestly and in good faith to ensure full compliance with Title III of the ADA and all other applicable federal and state disability laws, to the extent readily achievable and/or required by law.

## **FOURTH AFFIRMATIVE DEFENSE**

On information and belief, Defendants allege that the architectural, structural, or design repairs or modifications alleged by Plaintiff as necessary in the Complaint are barred to the extent they are not “readily achievable” and therefore not legally required under Title III of the Americans with Disabilities Act, the Unruh Civil Rights Act or the California Disable Persons Act.

## **FIFTH AFFIRMATIVE DEFENSE**

On the basis of information and belief, Defendants allege that Plaintiff's Second Purported Cause of Action for Violation of the Unruh Civil Rights Act, is subject to the limitations Section 55.56 of the California Civil Code.

## SIXTH AFFIRMATIVE DEFENSE

At all times relevant to this action, Defendants acted honestly and in good faith to ensure full compliance with Title III of the ADA and all other applicable federal and state disability laws, to the extent readily achievable and/or required by law.

WHEREFORE, Defendants ask for judgment against Plaintiff as follows:

1. That Plaintiff take nothing by virtue of the Complaint;
2. For reasonable costs of suit and attorney's fees; and

1           3. For such other and further relief as the Court deems just and proper.

2           Dated: 11-26-17

  
RALPH DI TULLIO, Defendant, In Pro Se

5           Dated: 11-27-17

  
ELISABETH DI TULLIO, Defendant, In Pro Se

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